

1 SCOTT N. SCHOOLS, SC SBN 9990
United States Attorney
2 JOANN M. SWANSON, CSBN 88143
Assistant United States Attorney
3 Chief, Civil Division
EDWARD A. OLSEN, CSBN 214150
4 Assistant United States Attorney

5 450 Golden Gate Avenue, Box 36055
San Francisco, California 94102
6 Telephone: (415) 436-6915
FAX: (415) 436-6927

7 Attorneys for Defendants

9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA

11 SAN FRANCISCO DIVISION

12 RAMANATHAN PADMANABHAN,)
Plaintiff,) No. C 07-5358 JSW
13)
14 v.) ANSWER
15 MICHAEL CHERTOFF, as Secretary of the)
Department of Homeland Security;)
16 United States Citizenship and Immigration)
Services, U.S. Department of Homeland Security;)
17 EMILIO T. GONZALEZ, as Director of U.S.)
Citizenship and Immigration Services;)
18 CHRISTINA POULOS, Director, California)
Service Center (CSC), U.S. Citizenship and)
19 Immigration Services;)
GERARD HEINAUER, Director, Nebraska)
20 Service Center (NSC), U.S. Citizenship and)
Immigration Services;)
ROBERT S. MUELLER, III, as Director of the)
Federal Bureau of Investigation;)
PETER D. KEISLER, Acting Attorney General)
of the United States, U.S. Department of Justice,)
Defendants.)
24 _____)

25 The Defendants hereby submit their answer to Plaintiff's Complaint for Declaratory Mandamus
26 and Injunctive Relief.

27 **PRELIMINARY STATEMENT**

28 1. Paragraph One consists of plaintiff's characterization of this action, to which no responsive

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1 pleading is required; however, to the extent a responsive pleading is necessary, defendants deny
2 the allegation that they have improperly withheld action on the application for adjustment of status
3 to plaintiff's detriment.

4 2. Defendants admit the allegation that Plaintiff filed his adjustment of status application on
5 April 13, 2004. The remaining allegations consists of plaintiff's characterization of this action, to
6 which no responsive pleading is required.

7 **JURISDICTION**

8 3. Paragraph Three consists of Plaintiff's allegations regarding jurisdiction, to which no
9 responsive pleading is required; however, to the extent a responsive pleading is deemed necessary,
10 Defendants deny that this Court has jurisdiction under any of the provisions cited in Paragraph
11 Three.

12 4. Paragraph Four consists of Plaintiff's characterization of this action for which no answer is
13 necessary; however, to the extent a response is deemed to be required, Defendants deny the
14 allegations in Paragraph Four.

15 **VENUE and INTRADISTRICT ASSIGNMENT**

16 5. Defendants admit the allegations in Paragraph Five.

17 6. Defendants admit the allegations in Paragraph Six.

18 **PARTIES**

19 7. Defendants admit that Plaintiff is a native and citizen of India, and that he filed an I-140
20 petition on February 19, 2004 which was approved on March 23, 2005. Defendants are without
21 sufficient information to admit or deny the remaining allegations in this paragraph.

22 8. Defendants admit the allegations in Paragraph Eight.

23 9. Defendants admit the allegations in Paragraph Nine.

24 10. Defendants admit the allegations in Paragraph Ten.

25 11. Defendants admit the allegations in Paragraph Eleven.

26 12. Defendants admit the allegations in Paragraph Twelve.

27 13. Defendants admit the allegations in Paragraph Thirteen.

28 14. Defendants admit the allegations in Paragraph Fourteen with the exception that Michael B.

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1 Mukasey is the United States Attorney General.

2 **STATEMENT OF FACTS**

3 15. The priority date for the I-140 petition filed on Plaintiff's behalf is April 24, 2001.

4 16. Defendants admit the allegations in Paragraph Sixteen.

5 17. Defendants admit the allegations in Paragraph Seventeen.

6 18. Defendants deny the allegation in Paragraph Eighteen.

7 19. Defendants admit the allegations in Paragraph Nineteen, although USCIS records indicate
8 the file was transferred on March 2, 2007.

9 20. Defendants admit the allegations in Paragraph Twenty, although any public information
10 refers to routine cases within USCIS control, not cases with pending FBI name checks.

11 21. Defendants admit the allegations in Paragraph Twenty-One.

12 22. Defendants admit the allegations in Paragraph Twenty-Two.

13 23. Defendants admit the allegations in Paragraph Twenty-Three.

14 24. Defendants are without sufficient information or knowledge to either admit or deny the
15 allegations in Paragraph Twenty-Four.

16 25. Defendants are without sufficient information or knowledge to either admit or deny the
17 allegations in Paragraph Twenty-Five.

18 26. Defendants are without sufficient information or knowledge to either admit or deny the
19 allegations in Paragraph Twenty-Six.

20 27. Defendants are without sufficient information or knowledge to either admit or deny the
21 allegations in Paragraph Twenty-Seven.

22 28. Defendants are without sufficient information or knowledge to either admit or deny the
23 allegations in Paragraph Twenty-Eight.

24 29. Defendants are without sufficient information or knowledge to either admit or deny the
25 allegations in Paragraph Twenty-Nine.

26 30. Defendants are without sufficient information or knowledge to either admit or deny the
27 allegations in Paragraph Thirty.

28 31. Defendants are without sufficient information or knowledge to either admit or deny the

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1 allegations in Paragraph Thirty-One.

2 32. Defendants are without sufficient information or knowledge to either admit or deny the
3 allegations in Paragraph Thirty-Two.

4 33. Defendants are without sufficient information or knowledge to either admit or deny the
5 allegations in Paragraph Thirty-Three.

6 34. Defendants are without sufficient information or knowledge to either admit or deny the
7 allegations in Paragraph Thirty-Four.

8 35. Defendants are without sufficient information or knowledge to either admit or deny the
9 allegations in Paragraph Thirty-Five.

10 36. Defendants are without sufficient information or knowledge to either admit or deny the
11 allegations in Paragraph Thirty-Six.

12 37. Defendants are without sufficient information or knowledge to either admit or deny the
13 allegations in Paragraph Thirty-Seven.

14 38. Defendants are without sufficient information or knowledge to either admit or deny the
15 allegations in Paragraph Thirty-Eight.

16 39. Defendants are without sufficient information or knowledge to either admit or deny the
17 allegations in Paragraph Thirty-Nine.

18 40. Defendants are without sufficient information or knowledge to either admit or deny the
19 allegations in Paragraph Forty.

20 **INJURY TO PLAINTIFF**

21 41. Defendants admit the first sentence in Paragraph Forty-One; however, Defendants are
22 without sufficient information to admit or deny the remaining allegations.

23 42. Defendants are without sufficient information or knowledge to either admit or deny the
24 allegations in Paragraph Forty-Two.

25 43. Defendants are without sufficient information or knowledge to either admit or deny the
26 allegations in Paragraph Forty-Three.

27 44. Defendants admit the requirement of work permits and travel documents and the
28 associated fees; however, Defendants are without sufficient information or knowledge to either

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1 admit or deny the remaining allegations.

2 45. Defendants are without sufficient information or knowledge to either admit or deny the
3 allegations in Paragraph Forty-Five.

4 46. Defendants are without sufficient information or knowledge to either admit or deny the
5 allegations in Paragraph Forty-Six.

6 47. Paragraph Forty-Seven consists of Plaintiff's characterization of this action for which no
7 answer is necessary; however, to the extent a response is deemed to be required, Defendants deny
8 the allegations in Paragraph Forty-Seven.

9 48. Defendants deny the allegations in Paragraph Forty-Eight.

10 **GROUND FOR RELIEF**

11 49. Defendants admit the first sentence in Paragraph Forty-Nine; however, Defendants deny
12 the remaining allegations in this paragraph.

13 50. Defendants deny the allegations in Paragraph Fifty.

14 51. Defendants admit the allegations in Paragraph Fifty-One.

15 52. Paragraph Fifty-Two of Plaintiff's conclusions of law for which no answer is necessary;
16 however, to the extent a response is deemed to be required, Defendants deny the allegations in
17 Paragraph Fifty-Two.

18 53. Defendants admit the allegations in Paragraph Fifty-Three.

19 54. Defendants admit the allegations in Paragraph Fifty-Four.

20 55. Defendants admit the allegations in Paragraph Fifty-Five.

21 56. Defendants deny the allegations in Paragraph Fifty-Six.

22 57. Defendants admit the allegations in Paragraph Fifty-Seven.

23 58. Defendants deny the allegations in Paragraph Fifty-Eight.

24 59. Defendants deny the allegations in Paragraph Fifty-Nine.

25 60. Defendants admit the allegations in Paragraph Sixty.

26 61. Defendants admit the allegations in Paragraph Sixty-One.

27

28

1 **CAUSES OF ACTION**

2 **COUNT I**

- 3 62. Defendants incorporates its responses made above as if set forth fully herein.
4 63. Defendants admit the allegations in Paragraph Sixty-Three.
5 64. Defendants deny the allegations in Paragraph Sixty-Four.
6 65. Defendants deny the allegations in Paragraph Sixty-Five.
7 66. Defendants deny the allegations in Paragraph Sixty-Six.
8 67. Defendants are without sufficient information to admit or deny the allegations in
9 Paragraph Sixty-Seven.
10 68. Defendants are without sufficient information to admit or deny the allegations in
11 Paragraph Sixty-Eight.
12 69. Defendants deny the allegations in Paragraph Sixty-Nine.

13 **COUNT II**

- 14 70. Defendants incorporates its responses made above as if set forth fully herein.
15 71. Defendants deny the allegations in Paragraph Seventy-One.

16 **COUNT III**

- 17 72. Defendants incorporates its responses made above as if set forth fully herein.
18 73. Defendants admit the first and second sentences in Paragraph Seventy-Three; however,
19 Defendants deny the remaining allegations in this paragraph.
20 74. Defendants deny the allegations in Paragraph Seventy-Four.
21 75. Defendants deny the allegations in Paragraph Seventy-Five.

22 **COUNT IV**

- 23 76. Defendants incorporates its responses made above as if set forth fully herein.
24 77. Defendants deny the allegations in Paragraph Seventy-Seven.
25 78. Defendants deny the allegations in Paragraph Seventy-Eight.
26 79. Defendants deny the allegations in Paragraph Seventy-Nine.

27 **COUNT V**

- 28 80. Defendants incorporates its responses made above as if set forth fully herein.

1 81. Defendants deny the allegations in Paragraph Eighty-One.

2 82. Defendants deny the allegations in Paragraph Eighty-Two.

3 **COUNT VI**

4 83. Defendants admit the allegations in Paragraph Eighty-Three.

5 84. Defendants are without sufficient information to admit or deny the allegations in
6 Paragraph Eighty-Four.

7 **PRAYER FOR RELIEF**

8 The remaining paragraphs consists of Plaintiff's prayer for relief, to which no admission or
9 denial is required; to the extent a responsive pleading is deemed to be required, Defendants deny
10 this paragraph.

11 **FIRST AFFIRMATIVE DEFENSE**

12 Plaintiff's complaint fails to state a claim upon which relief may be granted.

13 **SECOND AFFIRMATIVE DEFENSE**

14 The court should dismiss the Complaint for lack for subject matter jurisdiction.

15 WHEREFORE, Defendants pray for relief as follows:

16 That judgment be entered for Defendants and against Plaintiff, dismissing Plaintiff's
17 Complaint with prejudice; that Plaintiff takes nothing; and that the Court grant such further relief
18 as it deems just and proper under the circumstances.

19
20 Dated: December 21, 2007

Respectfully submitted,

21 SCOTT N. SCHOOLS
22 United States Attorney

23 /s/
24 EDWARD A. OLSEN
25 Assistant United States Attorney
26 Attorneys for Defendants

27
28 ANSWER
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